REMARKS

Summary of Office Action

Claim 66 stands rejected to under 35 U.S.C. §101 because the method claims are allegedly not attached to another statutory class.

Claims 36-37, 40-41, 43-45, 48-50, 51-52, 55-56, 58-60, 63-65, 66-67, 70-71, 73-75 and 78-80 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Acosta et al. (U.S. Patent No. 6,643,625) in view of Business Wire (*Triangle Announces Introduction of DESC 2000*, May 27, 1999), and further in view of Libman (U.S. Publication No. 2007/0043654).

Claims 38-39, 42, 47, 53-54, 57, 62, 68-69, 72, and 77 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Acosta et al. in view of Business Wire, and further in view of Tealdi et al. (U.S. Publication No. 2001/0029482), and further in view of Libman.

Claims 46, 61, and 76 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Acosta et al. in view of Business Wire, and further in view of Avery et al. (*Credit risk, credit scoring, and the performance of home mortgages*, July 1, 1996), and further in view of Libman, Jewell (*Checking Credit may solve problems*, University Wire, March 19, 1999), and Cole (U.S. Publication 2002/0133371).

Summary of Amendment

Claims 48 and 66 have been amended. Claim 81-83 are newly added. No new matter has been added. Claims 36-83 are pending for consideration.

Claims Comply with 35 U.S.C. §101

Claim 66 is rejected under 35 U.S.C. § 101 because the method claims are not attached to another statutory class. Claim 66 is not directed towards a process as asserted in the Office Action. Instead, the statutory class of invention of claim 66 is an article of manufacture (i.e., a computer program product). Therefore, the Office Action improperly applies the machine-or-transformation test for process claims in analyzing claim 66. *See in re Bilski*, 545 F.3d 943, 961 (Fed. Cir. 2008). Furthermore, the Board of Patent Appeals and Interferences recently found that "Beauregard Claims," such as claim 66, have long been considered to be statutory as product claims. *See ex parte Bo Li*, No. 2008-1213 (B.P.A.I. November 6, 2008); *see also in re Beauregard*, 53 F.3d 1583, 1583 (Fed. Cir. 1995). Accordingly, claim 66 is directed towards statutory subject matter, and Applicants request that the § 101 rejection be withdrawn.

However, in the interests of furthering prosecution, claim 66 has been amended to address the rejection under 35 U.S.C. § 101. The revisions do not and are not intended to further limit the claim in any way.

Claims Comply With 35 U.S.C. §103

Claims 36-37, 40-41, 43-45, 48-50, 51-52, 55-56, 58-60, 63-65, 66-67, 70-71, 73-75 and 78-80 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Acosta et al. in view of Business Wire, and further in view of Libman. Claims 38-39, 42, 47, 53-54, 57, 62, 68-69, 72, and 77 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Acosta et al. in view of Business Wire, and further in view of Tealdi et al., and further in view of Libman. Claims 46,

61, and 76 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Acosta et al. in view of Business Wire, and further in view of Avery et al., and further in view of Libman, Jewell, and Cole. Applicants respectfully traverse.

Claim 36 recites, in part, "a second tool to select an amount of the plurality of loans from each of the plurality of risk results up to a designated target loan sample size." Claims 51 and 66 recite, in part, "selecting . . . an amount of loans from each of the plurality of risk results up to the designated target loan sample size." The Office Action asserts that the combination of Acosta et al., Business Wire, and Libman, which is newly added, discloses these features. (*See* paragraphs 8, 30, and 52 of the June 9, 2009 Office Action). However, the combination of Acosta et al., Business Wire, and Libman fails to disclose at least a second tool to select an amount of the plurality of loans ***from each of the plurality of risk results up to a designated target loan sample size*** as recited in claim 36 or "selecting . . . an amount of loans ***from each of the plurality of risk results up to the designated target loan sample size***" as recited in claims 51 and 66.

In particular, the relied-upon portions of Acosta et al., namely column 1, lines 64 to column 3, line 16, column 3, lines 35-60, and column 9, lines 11-25, disclose a "[s]ampling methodology 10. . . stored on the server, and selected sampling parameters or criteria can include historical exception rates, confidence intervals, and precision. The number of records selected by the system is controlled in part by these sampling parameters or criteria." (*See* column 3, lines 35-60 of Acosta et al.) In other words, the loan records stored in the system of Acosta et al. are sampled based on various sampling parameters or criteria as shown in FIGS. 3-6 of Acosta et al.

However, the analysis, including sampling, performed in Acosta et al. does not include aggregating loans in a loan pool into a plurality of risk results as required in claims 36, 51, and 66. That is, Acosta et al. does not aggregate or categorize the loan records based on risk prior to performing the sampling. Furthermore, Acosta et al. fails to teach or suggest selecting an amount of loans from *each of the plurality of risk results up to the designated target loan sample size* as required in claims 36, 51, and 66. In other words, Acosta et al. does not include selecting an amount of loans from each category (i.e., plurality of risk results) up to the designated target loan sample size.

Libman fails to cure the deficiencies of Acosta et al. The Office Action admits that "Acosta does not specifically teach aggregating a plurality of loans in a loan pool into a plurality of risk results or selecting an amount of a plurality of loans from each of a plurality of risk results to make a sample size." (*See* paragraphs 8, 30, and 52 of the June 9, 2009 Office Action). The Office Action relies upon paragraphs [0037] through [0046] and [0057] of Libman to disclose these features. However, these cited portions of Libman fail to disclose at least a second tool to select an amount of the plurality of loans ***from each of the plurality of risk results up to a designated target loan sample size*** as recited in claim 36 or "selecting . . . an amount of loans ***from each of the plurality of risk results up to the designated target loan sample size***" as recited in claims 51 and 66.

In particular, Libman describes a method, as shown in FIG. 3, which includes steps of obtaining historic loan information, filtering historic loan information into pools, and

determining the historic probability of delinquency for pools corresponding to multi-level factors. FIG. 4a of Libman illustrates an example of 15,000 loans and the probability of delinquency.

However, Libman, like Acosta, fails to disclose a second tool to select an amount of the plurality of loans from each of the plurality of risk results up to a designated target loan sample size as recited in claim 36 or "selecting . . . an amount of loans from each of the plurality of risk results up to the designated target loan sample size" as recited in claims 51 and 66. The filtering performed in Libman does not include filtering the loans from each of the loan pools up to a designated target loan sample size. Instead, Libman teaches away from including this feature. Libman states "a very large historic information set from a variety of originators and servicers is desirable, since a large number will dilute the effect of anomalies in origination or servicing processes." In other words, Libman does not disclose sampling the pools (e.g., the pools in FIG. 4a), which are created from the historic information set, up to a designated target loan sample size. Rather, in Libman, sampling up to a designated target loan sample size is not used because a large information set is desirable. Accordingly, Applicants respectfully submit that Libman fails to disclose at least selecting an amount of the plurality of loans from each of the plurality of risk results up to a designated target loan sample size as required in claims 36, 51, and 66.

Finally, Business Wire fails to cure the deficiencies of Acosta et al. and Libman. Business Wire discloses that "[l]oans may be randomly chosen from a loan portfolio or loans may be chosen based on user specific risk attributes to investigate potential areas of loss." (*See* page 1 of Business Wire.) In other words, risk attributes may be used to choose loans in a loan

portfolio. However, the loans in Business Wire are not aggregated into a plurality of risk results (i.e., categories), but are instead chosen based on risk results without the use of aggregation of the loans. Further, the loans in Business Wire are not chosen or selected from *each of the plurality of risk results up to the designated target loan sample size*. In other words, Business Wire does not include selecting loans from each category (i.e., plurality of risk results) up to the designated target loan sample size.

Accordingly, the combination of Acosta et al. and Business Wire fails to teach at least a "second tool to select an amount of the plurality of loans from each of the plurality of risk results up to a designated target loan sample size" as recited in claim 36 or "selecting . . . an amount of loans from each of the plurality of risk results up to the designated target loan sample size" as recited in claims 51 and 66.

Dependent claims 37-50, 52-65, and 67-80 depend from one of independent claims 36, 51, and 66 thereby incorporating all of the features of their base claims. Accordingly, Applicants submit that Acosta et al., Business Wire, and Libman as well as Tealdi et al., Avery et al., Jewell, and Cole, whether taken individually or in combination, fail to render dependent claims 37-50, 52-65 and 67-80 obvious for at least the reasons discussed above.

For at least the reasons discussed above, Applicants respectfully request that the § 103 rejections to claims 36-80 be withdrawn.

Independent claims 81-83 are newly added. To the extent applicable, Applicants respectfully submit that Acosta et al., Business Wire, and Libman as well as Tealdi et al., Avery et al., Jewell, and Cole fail to disclose claims 81-83. For example, independent claim 81 recites

"a first tool to aggregate the plurality of loans in the loan pool into a plurality of risk results based on the loan-level data, one or more underwriting categories, one or more loan parameters associated with a risk profile of the loan pool, and one or more high risk report categories, and a second tool to select an amount of the plurality of loans from each of the plurality of risk results to fill a designated target loan sample size." Independent claims 82 and 83 recite designating a target loan sample size, aggregating loans in a loan pool into a plurality of risk results based on loan-level data associated with each of one or more loans in the loan pool, one or more underwriting categories, one or more loan parameters associated with a risk profile of the loan pool, and one or more high risk report categories, and selecting an amount of loans from each of the plurality of risk results to fill the designated target loan sample size. However, none of the cited references disclose these features as required in claims 81-83. Accordingly, Applicants respectfully submit that claims 81-83 are patentable.

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CONCLUSION

In view of the foregoing, reconsideration and timely allowance of the pending claims are respectfully requested. Should the Examiner feel that there are any issues outstanding after consideration of the response, the Examiner is invited to contact the Applicants' undersigned representative to expedite prosecution.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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